

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 156 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA. and
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
- 1 to 5: No

COMMISSIONER OF INCOME TAX

Versus

RAIPUR MFG. CO. LTD.

Appearance:

MR MANISH R BHATT for Petitioner

MR M.J. SHAH for MR JP SHAH for Respondent No. 1

CORAM : MR.JUSTICE R.BALIA. and

MR.JUSTICE A.R.DAVE

Date of decision: 05/04/99

ORAL JUDGEMENT (per R. Balia, J.)

At the instance of the C.I.T., Ahmedabad, the following question of law has been referred by the Income Tax Appellate Tribunal for the opinion of this Court in A.Y. 1973-74.

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the ITO cannot, in exercise of the powers under section 154 of the I.T. Act 1961 reduce the interest allowed under section 214 of the Act?"

2. Both the learned counsel state that, in view of the fact that two decisions relied upon by the Tribunal in Sarangpur Cotton Mfg. Co. Ltd. v. CIT, 31 ITR 698 (Bombay) and Sir Shadilal Sugar and General Mills Ltd. v. Union of India, 85 ITR 363 (Allahabad), have since been approved by the Supreme Court in Modi Industries Ltd. & Ors. v. CIT and Anr., 216 ITR 759, the question may be answered in favour of the assessee and against the revenue.

3. Accordingly, in view of the aforesaid, the question referred to us is answered in affirmative, that is to say, in favour of the assessee and against the revenue. There shall be no order as to costs.

(hn)